



US EPA RECORDS CENTER REGION 5



583141

U.S. Department of Justice

Environment and Natural Resources Division

JMG:SLS
90-11-3-768

*Environmental Enforcement Section
P.O. Box 7611
Washington, DC 20044-7611*

*Telephone (202) 514-3733
Facsimile (202) 616-6584*

July 7, 1998

To: each contractor identified on the Addressee Sheet attached to this letter

Re: U.S. v. Chrysler Corp., et al., Civil Action No. 5: 97 CV00894 (N.D. Ohio) and associated protective order regarding work at site in Cuyahoga Valley National Recreation Area, Ohio.

Dear Sirs:

Your company has been identified by the U.S. Environmental Protection Agency ("EPA") and/or U.S. Department of the Interior (National Park Service and/or Bureau of Reclamation) ("DOI") as performing work on their behalf at a hazardous waste site located in Ohio, within the Cuyahoga Valley National Recreation Area. This site, known as the Krejci dump site or Hines Hill Road dump site, is the subject of cost recovery litigation in the Northern District of Ohio, brought on behalf of DOI under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").

Pursuant to the terms of the Case Management Order in this matter, the Court has entered a Stipulation and Protective Order Regarding Confidentiality that addresses the production of documents for which you may have asserted or wish to assert a claim of Confidential Business Information. A copy of this order is included with this letter. Most of you should have received inquiries from DOI as to the status of any of your documents that you have given DOI regarding this matter. To date, we have heard from most, but not all such contractors. In our production of documents, we have endeavored to mark documents in accordance with these responses. As to EPA contractors, we marked cost documentation as Confidential Business Information. -

Although we are in the process of producing documents related to costs and work performed at the site, these issues are not addressed in the current phase of discovery in the ongoing litigation. Thus, it is the position of the United States that its identification of its contractors and production of cost documentation related to their work does not constitute a waiver

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U.S. EPA, Region 5
Office of Regional Counsel

of any privileges to which it is entitled, nor does it consent to interviews or other contacts with any of its contractors or other employees outside the context of discovery in this matter by Defendants, their contractors or any other persons acting on their behalf. If you are contacted about this matter by any defendant or any of their representatives or contractors (e.g., Advanced Analytical Systems, Inc. or A2S), other than the receipt of Defendants' letter of June 1, 1998 (enclosing the identification of their two contractors that will review such materials), we would appreciate hearing from you.

If you have any questions, please contact me at (202) 514-3733 or DOI attorney Shawn Mulligan at (303) 415-9014 (DOI contractors only) or EPA attorney Rhett Nelson at (312) 886-6666 (EPA contractors only). If you wish to discuss your documents and any related claims of business confidentiality, please contact me. If you have not contacted us previously and wish to assert a claim of confidentiality regarding business information, please contact us so that we can, if necessary and if not already done, make this claim, as provided in the protective order.

Sincerely,



Susan L. Schneider, Senior Attorney
Environmental Enforcement Section
U.S. Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044
(202) 514-3733

Enclosure

cc: Rhett Nelson, EPA Region 5
Shawn Mulligan, DOI, SOL/NPS

Letter, July 7, 1998
to EPA/DOI contractors at Krejci Site

List of Addressees

1. Ecology & Environment Inc.
368 Pleasant View Drive
Lancaster, New York 14086-1397
2. Jacobs Engineering
1111 South Arroyo Parkway
Pasadena, California 91105
3. Metcalf & Eddy
30 Harvard Mill Square
P.O. Box 4071
Wakefield, MA 01880
4. Roy F. Weston
Suite 1515, Market St.
Philadelphia, PA 19102-1956
5. Bankers Leasing Association
4201 Lakecook Rd
Northbrook, IL 60062
6. Foster-Wheeler Corp. [formerly Ebasco Services Inc.]
143 Union Boulevard, Suite 1010
Lakewood, Colorado 80228-1824
Attn: Michael Amdurer
7. R & R International, Inc.
1214 South Cleve-Mass Road
P.O. Box 4383
Akron, Ohio 44321
Attn: Lisa Stepanek
8. Harza Consulting Engineers & Scientists
Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6392
Attn: Farrukh Mazhar
9. Woodward-Clyde Federal Services
Stanford Place 3, Suite 1000
4582 South Ulster Street
Denver, Colorado 80237

Attn: John France

10. Rodriguez & Associates
66 East Exchange Place
Salt Lake City, Utah 84111
11. Tina Yee & Associates
3435 South Yosemite Street, Suite 180
Denver, Colorado 80231-4601
12. Techlaw Inc.
14500 Avion Parkway, Suite 300
Chantilly, Virginia 22021-1101
Attn: Christy Maier
13. Envirite Corp.
2050 Central Avenue S.E.
Canton, Ohio 44707
Attn: Kurt Hoffman
14. S.D. Meyers
180 South Avenue
Tallmadge, Ohio 44278
Attn: Martha Doyle
15. Custon Investigative Services
812 Frost Road
Streetsboro, Ohio 44241
Attn: Archie Jones
16. Barringer
15000 W. 6th Ave., Suite 300
Golden, Colorado 80401
Attn: Mark Rocha
17. Accu-Labs Research, Inc.
4663 Table Mountain Drive
Golden, Colorado 80403-1650
Attn: Tom Balka
18. Quanterra, Inc.
880 Riverside Parkway
Broderick, Calif. 95605-1500
Attn: Robert Hrabak

COPY

FILED

98 MAY 20 AM 10:28

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
AKRON

ISSUED
MAY 20 1998

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	5:97 CV00894
)	JUDGE BELL
CHRYSLER CORPORATION,)	MAG. JUDGE GALLAS
FORD MOTOR COMPANY,)	
KEWANEE INDUSTRIES, INC., AND)	
CHEVRON U.S.A. INC., AND)	
MINNESOTA MINING AND)	
MANUFACTURING COMPANY,)	
)	
Defendants.)	

STIPULATION AND PROTECTIVE ORDER
- REGARDING CONFIDENTIALITY

Plaintiff, United States of America, and the Defendants in this action have hereby stipulated that discovery in this case will involve the production of documents that have been submitted to the United States Environmental Protection Agency and to various agencies of the United States Department of the Interior by various contractors and other persons containing information that may be entitled to confidential treatment. Annex 1 is a list of contractors and other persons hereinafter referred to as "submitters," who have submitted information to Plaintiff that may become subject to this Protective Order, including the address to which any notices may

DEPARTMENT OF JUSTICE

MAY 27 1998

LANDS DIVISION

be directed, as required under this order. Documents may be produced by Defendants to Plaintiff, as well as to each other, that may also be entitled to confidential treatment. Annex 2 includes a list for each Defendant and/or a joint list for all Defendants of contractors and other persons hereinafter referred to as "submitters," who have submitted information to one or more Defendants that may become subject to this Protective Order, including the address to which any notices may be directed, as required under this order. In some instances, a Defendant may be the "submitter."

In view of this stipulation, the Court finds that good cause exists for issuance of an order requiring limited disclosure of such information. Upon consideration of the joint motion for such an order filed by the parties hereto and pursuant to Rule 26(c), Federal Rules of Civil Procedure, It is Hereby Ordered:

1. Any document(s) produced in this case containing information that may be entitled to confidential treatment shall be handled in accordance with the terms of this Stipulation and Protective Order ("Protective Order").

2. As used in this Protective Order, the term "confidential business information" ("CBI") means trade secrets or commercial or financial information submitted by a person to a party and which may be entitled to confidential treatment under statute or regulation, including but not limited to 5 U.S.C. §552(b)(4), 42 U.S.C. § 9601 et seq., or any regulations promulgated thereunder, including but not limited to 40 C.F.R. part 2. The term "CBI" does not include information that has been determined under applicable law or regulations not to be entitled to confidential treatment.

3. Any information to be produced pursuant to this Protective Order shall be stamped

conspicuously with the words "CONFIDENTIAL BUSINESS INFORMATION" on each page of each document prior to production. The transmittal of information designated as CBI shall be accompanied by letter from the producing party stating that the information designated as CBI is subject to this Protective Order and identifying the submitter or other source of such confidential information. In addition, any document containing information subject to protection under the Privacy Act, 5 U.S.C. § 552a, shall be redacted to prevent the production of information subject to protection.

4. Unless this stipulation is amended by consent of the parties or on motion of a party, information designated as CBI under this Protective Order shall not be used or disclosed by the parties or any other person subject to Paragraph 7 below for any purpose other than settlement negotiations for, preparation for, and trial of, this action and any appeal therein. However, it shall not be a violation of this Protective Order if there is an unauthorized use or disclosure of information that, although designated as CBI, is later found not be entitled to confidential treatment pursuant to applicable law and/or regulations. The parties also agree to enter into a similar Protective Order in any related action and agree that their consent to such an order shall not be withheld unreasonably.

5. The parties and their counsel, including without limitation any officer, director, employee, agent, or representative of the parties or their counsel, or any nonparty, who obtain information designated as CBI hereunder, and any nonparty subject to this Protective Order, shall not disclose or permit disclosure of this information to any other person, except in the following circumstances:

a. Disclosure may be made to employees of the parties or their counsel who have

responsibility for assistance in the settlement of this action or the preparation and trial of this action or any appeal therein. Any employee to whom disclosure is made shall be advised of, and become subject to, the provisions of this Protective Order prior to such disclosure by executing the Confidentiality Agreement annexed hereto. Employees do not include persons, firms or corporations engaged by the parties or their counsel on a contract basis, who shall be subject to the requirements of subparagraph (b) of this Paragraph.

b. Disclosure may be made to consultants, witnesses, experts, or employees of experts ("Expert(s)") employed or otherwise engaged by any party or counsel to any party to assist in the settlement or preparation and trial of this litigation. Prior to disclosure to any Expert, the Expert must agree to be bound by the terms of this Protective Order by executing the Confidentiality Agreement annexed hereto. A copy of each executed Confidentiality Agreement shall be furnished to the party who provided the information and to the submitter not less than five (5) business days prior to disclosure to the Expert. If the Expert is not to testify in this case, and the party retaining such Expert desires to keep the identity of such Expert confidential, then the party may provide notice to the party that produced the information and to the submitter not less than five (5) business days prior to disclosure, that disclosure is to be made to an unidentified Expert, and the Confidentiality Agreement signed by that Expert shall be filed under seal with the Court. Execution of the Confidentiality Agreement by an Expert shall serve to bind all employees of the same firm that employs the Expert.

6. The parties and their counsel, and any other person subject to this Protective Order who obtains information designated as CBI hereunder, shall take all necessary and appropriate measures to maintain the confidentiality of the information, shall share such information only

with persons authorized to receive it pursuant to this Protective Order, and shall retain the information in a secure manner. Except as provided in Paragraph 5 above, no other person shall be permitted access to the information.

7. Any person who obtains access to information designated as CBI under this Protective Order may make copies, duplicates, extracts, summaries, or descriptions of the information or any portion thereof only for the purpose of preparation of settlement negotiations or for litigation in this matter. All copies, duplicates, extracts, etc. shall be subject to the terms of this Protective Order to the same extent and manner as original documents.

8. Any information designated as CBI under this Protective Order that any party files (the "filing party") with the Court shall be filed in sealed envelopes or other appropriate sealed containers on which shall be endorsed the caption of this litigation, an indication of the nature of the contents of such sealed envelope or container, the words "CONFIDENTIAL BUSINESS INFORMATION", and a statement substantially in the following form:

"This envelope, containing documents that are filed in this case by _____ ("the filing party"), having been produced by _____ ("the producing party"), is not to be opened and the contents are not to be displayed or revealed except by order of the Court or consent of the producing party."

In addition, if such documents have been sealed and filed with the Court, the party that produced them initially and the submitter shall be informed of this by the filing party at the time of filing.

9. Any unauthorized disclosure of information designated as confidential under this Protective Order shall not result in a waiver of any producing party's or submitter's claim of confidentiality.

10. If any "Confidential Business Information" designation is inadvertently omitted, this may be corrected by written notification to counsel for parties that received the document(s), who shall mark the document(s) and treat them pursuant to the requirements of this Order. If any document is inadvertently produced that has not had all appropriate information redacted for purposes of the Privacy Act, this may be corrected by written notification to counsel for parties that received the document(s), including copies of the document(s) as redacted. Those parties receiving the documents shall replace them with the newly supplied and redacted documents and destroy the original and all copies of the original documents.

11. If a party desires to add contractors or other persons to the list in Annex 1 or Annex 2, as appropriate, the party may file written notice with the Court and the other parties of the identities of such persons. If no party objects within three days of receipt of such notice, the contractors or other persons will be added to the Annex.


12. Within 120 days after termination of this action by judgment, settlement or otherwise, or as may be determined by the parties in consultation with each other, or as determined by the court:

a. Any person who obtained information designated as CBI in this matter shall destroy all such information, including all copies, duplicates, extracts, summaries, or descriptions of the information or portions thereof. Such destruction shall be certified in writing by counsel for the party who obtained the information from the producing party. All such information covered by this Protective Order that constitutes the work product of counsel for the receiving party shall also be destroyed; and,

b. The Clerk of the Court shall maintain under seal all papers filed under seal until the

Court orders otherwise.

SO ORDERED THIS 20 DAY OF May 1998



United States District Judge

ANNEX 1: SUBMITTED BY PLAINTIFF

ANNEX 2: SUBMITTED BY DEFENDANT(S)

ANNEX 3
CONFIDENTIALITY AGREEMENT

In the Matter of United States v. Chrysler Corp., et al.,
Civil Action No. 5:97 CV00894

The undersigned has been employed or otherwise engaged as an employee of, or a consultant or contractor, to the following company/companies or agency/agencies located at the following address(es):

The undersigned hereby acknowledges that he/she has read the foregoing Stipulation and Protective Order ("Protective Order") executed by the attorneys of record for the parties in the action presently pending in the U.S. District Court for the Northern District of Ohio, entitled United States v. Chrysler Corp., et al. The undersigned understands the terms thereof, and agrees, upon threat of penalty of contempt, to be bound by such terms. Accordingly, among other responsibilities, the undersigned shall only share such information with persons specifically authorized to receive the information pursuant to the Protective Order, shall retain the information in a secure manner, and shall use such information only for the purposes authorized by the Protective Order. The undersigned understands that the pledge of confidentiality under this Agreement continues after the lawsuit is over. Furthermore, the undersigned understands that a breach of the Protective Order may subject him/her to civil claims for damages and to criminal prosecution under 42 U.S.C. § 9604(e)(7)(B).

The undersigned specifically acknowledges the provisions of paragraph 5.b. of the Protective Order, which provides that execution of this Confidentiality Agreement shall serve to bind all employees of the same firm or firms that employs the undersigned. By his/her signature to this Confidentiality Agreement, the undersigned agrees to ensure that all such employees are notified of both the Protective Order and this Confidentiality Agreement.

DATED: _____

SIGNED: _____

Company Name: _____

Address: _____

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
AKRON

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
AKRON

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	5:97 CV00894
)	JUDGE BELL
CHRYSLER CORPORATION,)	MAG. JUDGE GALLAS
FORD MOTOR COMPANY,)	
KEWANEE INDUSTRIES, INC., AND)	
CHEVRON U.S.A. INC., AND)	
MINNESOTA MINING AND)	
MANUFACTURING COMPANY,)	
)	
Defendants.)	

STIPULATION AND PROTECTIVE ORDER
REGARDING CONFIDENTIALITY

ANNEX 1: SUBMITTED BY PLAINTIFF

[partial list as of May 8, 1998]

I. U.S. Contractors:

1. Ecology & Environment Inc.
368 Pleasant View Drive
Lancaster, New York 14086-1397
2. Jacobs Engineering
1111 South Arroyo Parkway
Pasadena, California 91105

Stipulation and Protective Order Regarding Confidentiality
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ANNEX 1, Submitted by Plaintiff
Partial list as of May 8, 1998
Page 2

3. Metcalf & Eddy
30 Harvard Mill Square
P.O. Box 4071
Wakefield, MA 01880
4. Roy F. Weston
Suite 1515, Market St.
Philadelphia, PA 19102-1956
5. Bankers Leasing Association
4201 Lakecook Rd
Northbrook, IL 60062
6. Foster-Wheeler Corp. [formerly Ebasco Services Inc.]
143 Union Boulevard, Suite 1010
Lakewood, Colorado 80228-1824
Attn: Michael Amdurer
7. R & R International, Inc.
1214 South Cleve-Mass Road
P.O. Box 4383
Akron, Ohio 44321
Attn: Lisa Stepanek
8. Harza Consulting Engineers & Scientists
Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6392
Attn: Farrukh Mazhar
9. Woodward-Clyde Federal Services
Stanford Place 3, Suite 1000
4582 South Ulster Street
Denver, Colorado 80237
Attn: John France
10. Rodriguez & Associates
66 East Exchange Place
Salt Lake City, Utah 84111

Stipulation and Protective Order Regarding Confidentiality
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11. Tina Yee & Associates
3435 South Yosemite Street, Suite 180
Denver, Colorado 80231-4601

12. Techlaw Inc.
14500 Avion Parkway, Suite 300
Chantilly, Virginia 22021-1101
Attn: Christy Maier

13. Envirite Corp.
2050 Central Avenue S.E.
Canton, Ohio 44707
Attn: Kurt Hoffman

14. S.D. Meyers
180 South Avenue
Tallmadge, Ohio 44278
Attn: Martha Doyle

15. Custon Investigative Services
812 Frost Road
Streetsboro, Ohio 44241
Attn: Archie Jones

deleted 16. Core Laboratories, Inc.
10703 East Bethany Drive
Aurora, Colorado 80014-2696
Attn: Ellen M. Coleman

17. Barringer
15000 W. 6th Ave., Suite 300
Golden, Colorado 80401
Attn: Mark Rocha

18. Accu-Labs Research, Inc.
4663 Table Mountain Drive
Golden, Colorado 80403-1650
Attn: Tom Balka

Stipulation and Protective Order Regarding Confidentiality
U.S. v. Chrysler Corp., et al., Civil Action No. 5: 97 CV00894
ANNEX 1, Submitted by Plaintiff
Partial list as of May 8, 1998
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19. Quanterra, Inc.
880 Riverside Parkway
Broderick, Calif. 95605-1500
Attn: Robert Hrabak

II. Information from private sources:

1. Alcan Aluminum Corp.
100 Erieview
Cleveland, Ohio 44114-1878
Attn: Lawrence A. Salibra II
2. Ashland Chemical Co.
P.O. Box 2219
Columbus, Ohio 43216
Attn: Gertrude M. Kelly
3. Browning-Ferris Industries
P.O. Box 3151
Houston, Texas 77253
Attn: Kathleen Poloskey
4. D. Hamilton Trucking Inc.
c/o Brian J. Melling
Melling, Melling & Bell
31 Columbus Road
P.O. Box 46311
Bedford, Ohio 44146
5. The Dexter Corp.
One Elm Street
Windsor Locks, Connecticut 06096
Attn: Julianne Splain
6. Dow Chemical Co.
2030 Dow Center
Midland, Michigan 48674
Attn: Michael Kay

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7. Jane Krejci
c/o George Horvath
First National Bank Building
Suite 102
480 West Tuscarawas Avenue
Barberton, Ohio 44203
8. John Krejci
c/o Eli Manos
Mansour, Gavin, Gerlack & Manos
55 Public Square, Suite 2150
Cleveland, Ohio 44113-1994
9. Liberty Solvents & Chemical Co.
9429 Ravenna Road
Twinsburg, Ohio 44087
Attn: Raymond E. Pasquali

Respectfully submitted,

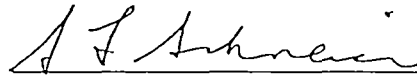
LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources
Division
United States Department of Justice

EMILY M. SWEENEY
United States Attorney
Northern District of Ohio

ARTHUR I. HARRIS
Bar No. 0027128
Assistant United States Attorney
Northern District of Ohio

Stipulation and Protective Order Regarding Confidentiality
U.S. v. Chrysler Corp., et al., Civil Action No. 5: 97 CV00894
ANNEX 1, Submitted by Plaintiff
Partial list as of May 8, 1998
Page 6

1800 Bank One Center
600 Superior Avenue
Cleveland, Ohio 44114
(216) 622-3711



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Senior Attorney, Environmental
Enforcement Section
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
(202) 514-3733

CECILIA E. KIM
Attorney, Environmental Defense
Section
U.S. Department of Justice
P.O. Box 23986
Ben Franklin Station
Washington, D.C. 20044
(202) 305-0739

OF COUNSEL:

SHAWN P. MULLIGAN
Attorney-Advisor, National Park Service
1050 Walnut Street
Suite 220
Boulder, Colorado 80302

Stipulation and Protective Order Regarding Confidentiality
U.S. v. Chrysler Corp., et al., Civil Action No. 5: 97 CV00894
ANNEX 1, Submitted by Plaintiff
Partial list as of May 8, 1998
Page 7

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Annex 1 to the Stipulation and Protective Order Regarding Confidentiality has been served on counsel of record, this 13th day of May, 1998.

A handwritten signature in cursive script, appearing to read "S L Schneider", is written over a horizontal line.

Susan L. Schneider